

**No. 33. An act relating to miscellaneous subjects related to the Public Utility Commission.**

(S.112)

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Section 248 \* \* \*

Sec. 1. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND  
FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

\* \* \*

(4)(A) With respect to a facility located in the State, in response to a request from one or more members of the public or a party, the Public Utility Commission shall hold a nonevidentiary public hearing on a petition for such finding and certificate. The public hearing shall either be remotely accessible or held in at least one county in which any portion of the construction of the facility is proposed to be located, or both. The Commission in its discretion may hold a nonevidentiary public hearing in the absence of any request from a member of the public or a party. From the comments made at a public hearing, the Commission shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Commission shall direct the parties to provide evidence on the area.

This subdivision does not require the Commission to respond to each individual comment.

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(i)(1) No company, as defined in sections 201 and 203 of this title, without approval by the Commission, after giving notice of such investment; or filing a copy of that contract; with the Commission and the Department at least 30 days prior to the proposed effective date of that contract or investment:

(A) may invest in a gas-production facility located outside this State;

or

(B) may execute a contract for the purchase of gas from outside the State, for resale to firm-tariff customers, that:

(i) is for a period exceeding five years; or

(ii) represents more than 10 percent of that company's peak

demand for resale to firm-tariff customers.

(2) The Department and the Commission shall consider within 30 days whether to investigate the proposed investment or contract.

(3) The Commission, upon its own motion; or upon the recommendation of the Department, may determine to initiate an investigation. If the Commission does not initiate an investigation within such 30-day period, the contract or investment shall be deemed to be approved. If the Commission determines to initiate an investigation, it shall give notice of that decision to the company proposing the investment or contract, the Department, and such

other persons as the Commission determines are appropriate. The Commission shall conclude its investigation within 120 days of issuance of its notice of investigation, or within such shorter period as it deems appropriate, unless the company consents to waive the 120-day requirement. ~~If~~ Except when the company consents to waive the 120-day requirement, if the Commission fails to issue a decision within that 120-day period, the contract or investment shall be deemed to be approved. The Commission may hold informal, public, or evidentiary hearings on the proposed investment or contract.

\* \* \*

(u) For an energy storage facility, a certificate under this section shall only be required for a stationary facility exporting to the grid that has a capacity of 100 kW or greater, unless the Commission establishes a larger threshold by rule. The Commission shall establish a simplified application process for energy storage facilities subject to this section with a capacity of up to 1 MW, unless it establishes a larger threshold by rule. For facilities eligible for this simplified application process, a certificate of public good will be issued by the Commission by the forty-sixth day following filing of a complete application, unless a substantive objection is timely filed with the Commission or the Commission itself raises an issue. The Commission may require facilities eligible for the simplified application process to include a letter from the interconnecting utility indicating the absence or resolution of interconnection issues as part of the application.

Sec. 2. 30 V.S.A. § 101 is amended to read:

§ 101. CORPORATIONS SUBJECT TO COMMISSION; FORMATION

(a) Subject to the additional or varied requirements of this chapter, a corporation may be formed pursuant to the provisions of the general corporation law for the sole purpose of conducting any one or more of the kinds of business, other than a railroad business, ~~which~~ that are subject to regulation by the Public Utility Commission.

(b) Unless the context clearly requires otherwise, references in this title to a “corporation” mean and include an individual, partnership, association, corporation, limited liability company, municipality, cooperative, and any other legally recognized entity or person.

(c) Unless the context clearly requires otherwise, references in this title to “articles of incorporation” mean and include articles of organization, partnership agreements, or other documentation submitted to the Vermont Secretary of State to register or form a business.

\* \* \* Hearings \* \* \*

Sec. 3. 30 V.S.A. § 506 is amended to read:

§ 506. RENEWAL

Certificates with a limited duration may be renewed during or at the end of the period, after opportunity for hearing held according to the criteria for the granting of an original certificate in section 504 of this title and after the Commission has made the finding required by that section. As part of the

renewal proceedings, the Commission shall hold a public hearing. The public hearing shall either be remotely accessible or held in each county served pursuant to the certificates ~~which~~ that are the subject of the renewal proceedings, or both.

Sec. 4. 30 V.S.A. § 102 is amended to read:

§ 102. PETITION; HEARING; CERTIFICATE

(a) Before the articles of incorporation are transmitted to the Secretary of State, the incorporators shall petition the Public Utility Commission to determine whether the establishment and maintenance of ~~such~~ the corporation will promote the general good of the State and shall at that time file a copy of any ~~such~~ petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. ~~Such~~ The recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Commission deems a hearing necessary, it shall appoint a time and place either remotely accessible or in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and of the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the corporation, the last publication to be at least 12 days before the day appointed~~

~~for the hearing.~~ At least 12 days before this hearing, notice of the hearing shall be published on the Commission's website and once in a newspaper of general circulation in the county in which the proposed corporation is to have its principal office. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Department of Public Service, through the Director for Public Advocacy, shall represent the public at the hearing.

\* \* \*

Sec. 5. 30 V.S.A. § 227 is amended to read:

§ 227. SUSPENSION, REFUND

(a) If the Commission orders that a change shall not go into effect until final determination of the proceedings, it shall proceed to hear the matter as promptly as possible and shall make its determination within seven months from the date that it orders the investigation unless the company consents to waive the seven-month requirement. If a company files for a change in rate design among classes of ratepayers, and the company has a rate case pending before the Commission, the Commission shall make its determination on the rate design change within seven months after the rate case is decided by the Commission unless the company consents to waive the seven-month requirement. ~~If~~ Except when the company consents to waive the seven-month requirement, if the Commission fails to make its determination within the time

periods set by this subsection, the changed rate schedules filed by the company shall become effective and final.

\* \* \*

\* \* \* Rulemaking Authority \* \* \*

Sec. 6. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF  
FACT

(a)(1) The forms, pleadings, and rules of practice and procedure before the Commission shall be prescribed by it.

(2) With regard to the general procedural rules codified in Commission Rule 2.000, notwithstanding the rulemaking provisions of the Vermont Administrative Procedure Act, the Commission is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and forms for all Commission proceedings.

(3) The rules prescribed or amended shall not abridge, enlarge, or modify any substantive rights of any person provided by law.

(4) The rules, when initially prescribed or any amendments to them, including any repeal, modification, or addition, shall take effect on the date provided by the Commission in its order of promulgation unless objected to by the Legislative Committee on Judicial Rules as provided in 12 V.S.A. chapter 1. If an objection is made by the Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been

reported to the General Assembly by the Chair of the Commission at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report.

(5) The General Assembly may repeal, revise, or modify any rule or amendment, and its action shall not be abridged, enlarged, or modified by subsequent rule.

(6) The Commission shall adopt rules that include, among other things, provisions that:

~~(1)~~(A) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file with the Commission all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the Commission, a utility shall not be permitted to introduce into evidence in its direct case exhibits which are not filed in accordance with this rule.

~~(2)~~(B) A scheduling conference shall be ordered in every contested rate case. At such conference the Commission may require the State or any person opposing such rate increase to specify what items shown by the filed exhibits are conceded. Further proof of conceded items shall not be required.

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Sec. 7. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) “Adopting authority” means the Chief Justice of the Supreme Court or the Chief Superior Judge, where appropriate.

(2) “Commission” means the Public Utility Commission.

(3) “Court” means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the Chief Superior Judge, in which case, the word “court” means the Chief Superior Judge.

~~(3)~~(4) “Rule” means a statement of general applicability that implements, interprets, or prescribes law or policy or the general procedural rules codified in Commission Rule 2.000. It includes judicial or administrative orders such as those issued under sections 31 and 37 of the Constitution of the State of Vermont and all substantive or procedural requirements of a court, which affect one or more persons who are not employees of the court, which are used by the court in the discharge of its duties. It shall not include judicial orders or opinions issued in the resolution of a case or controversy. It shall not include any orders or rules of the Commission other than the general procedural rules codified in Commission Rule 2.000.

Sec. 8. 12 V.S.A. § 3 is amended to read:

§ 3. LEGISLATIVE COMMITTEE ON JUDICIAL RULES

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(d) In addition to its powers under section 4 of this title concerning rules, the Committee may, in a similar manner, conduct public hearings, object, and notify the Court or Commission of objections concerning existing rules. A rule reviewed under this subsection shall remain in effect until amended or repealed.

(e) Rules or amendments thereto promulgated by the Supreme Court or the Commission, including any repeal, modification, or addition to existing rules, shall be submitted to the Legislative Committee on Judicial Rules at least 60 days prior to their effective date.

Sec. 9. 12 V.S.A. § 4 is amended to read:

§ 4. REVIEW BY LEGISLATIVE COMMITTEE

(a) The Legislative Committee on Judicial Rules, by majority vote of the entire Committee, may object to proposed rules or amendments and recommend that the Court or the Commission amend or withdraw the proposal. The Court or the Commission shall be notified promptly of the objections. The Court or the Commission may respond in writing to the Committee. After receipt of a response, the Committee may withdraw or modify its objections.

(b) The Committee shall report on each proposal with the Committee's recommendations; annually to the General Assembly on or before January 10.

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Sec. 10. 3 V.S.A. § 810 is amended to read:

§ 810. RULES OF EVIDENCE; OFFICIAL NOTICE

In contested cases:

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent ~~men~~ persons in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

Sec. 10a. RENEWABLE ENERGY STANDARD WORKING GROUP

(a) Established. The Legislative Working Group on Renewable Energy Standard Reform is created to draft legislation to be considered by the General Assembly during the 2024 Legislative session.

(b) Membership.

(1) The Legislative Working Group on Renewable Energy Standard Reform will be convened by two members from the House appointed by the Speaker of the House and two members of the Senate appointed by the

Committee on Committees. One member from the House and one member from the Senate shall be the co-chairs of the Work Group.

(2) The Working Group shall also be made up of one representative from each of the following: Green Mountain Power, Burlington Electric Department, Vermont Public Power Supply Authority, Washington Electric Coop, Vermont Electric Coop, Vermont Public Interest Research Group, Renewable Energy Vermont, Conservation Law Foundation, Vermont Electric Power Company, Vermont Housing Finance Agency, Vermont Natural Resources Council, GlobalFoundries, Associated Industries of Vermont, and the Sierra Club. Stowe Electric and Hyde Park Electric may each name a representative to the Working Group if they choose.

(c) Duties. In addition to submitting draft legislation, the Working Group shall report on the following:

(1) whether any changes to Vermont's existing renewable energy requirements, or other energy policies, are needed to increase grid stability, resiliency, modernization, and reliability;

(2) identifying any barriers to moving to a 100 percent renewable standard for all electrical utilities by 2030;

(3) recommending cost effective procurement policies to increase new renewable energy, storage, and flexible load management to offset increasing in-State load, improve grid stability and resiliency, and that consider integrated resource planning electric load growth projections;

(4) whether increasing the requirement for out-of-state renewable procurements within or delivered into the ISO-New England territory can ensure affordable electric rates;

(5) evaluating the impact legislative recommendations may have on Tier III implementation;

(6) evaluating the impact recommended legislative changes to procurement programs will have on Vermont jobs and the Vermont economy;

(7) how current programs impact environmental justice focus populations, households with low income, and households with moderate income and how a revised Renewable Energy Standard can ensure that benefits and burdens are distributed equitably; and

(8) how any changes to the Renewable Energy Standard will address the inequity of distribution of benefits of renewables between different residential properties.

(d) Assistance.

(1) The Working Group shall have legal assistance from the Office of Legislative Council and administrative assistance from the Office of Legislative Operations.

(2) On or before July 15, 2023, the Joint Fiscal Office may retain the services of one or more independent third parties to provide facilitation and mediation services to the Working Group, and data analysis recommendations at the direction of the legislative members.

(3) The Department of Public Service shall be invited to advise the Working Group on the results of its ongoing public process to review the Renewable Energy Standard and any other items as needed.

(e) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group serving in the legislator's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings.

(2) Other members of the Working Group who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings.

(3) The payments under this subsection (e) shall be made from monies appropriated by the General Assembly.

(f) Report. The Working Group shall submit draft legislation and a report on its deliberations and findings to the House Committee on Environment and Energy and Senate Committee on Natural Resources and Energy by December 1, 2023. Working Group members may submit minority opinions that shall be included with the report containing the draft legislation.

(g) Appropriation. In fiscal year 2024, it is the intent of the General Assembly to appropriate funds if available from the General Fund to the Joint Fiscal Office to hire the consultants pursuant to this section.

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\* \* \* Effective Date \* \* \*

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

Date Governor signed bill: May 31, 2023